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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,688	11/10/2003	Will H. Hartfeldt	1008.003	4641

7590 12/06/2005

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EXAMINER

PAK, JOHN D

ART UNIT PAPER NUMBER

1616

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,688

Applicant(s)

HARTFELDT, WILL H.

Examiner

JOHN PAK

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,8 and 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7,9-11 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 1-23 are pending in this application.

Applicant's election without traverse of the invention of Group III in the reply filed on 9/27/2005 is acknowledged.

Accordingly, claims 1-3, 8 and 12-18 are withdrawn from further consideration as being directed to non-elected subject matter. Claims **4-7, 9-11 and 19-23** will presently be examined to the extent that they read on the elected subject matter, i.e. method of treating inanimate surfaces. Applicant is requested to amend claim 7 to the elected subject matter.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7, 9-11 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thirumalachar et al. (US 4,544,666).

Thirumalachar et al. disclose the same exact tannate complexes as applicant's tannate complexes. See in Thirumalachar et al., column 3, line 12 to column 4, line 11 & claims 1-4. Control of soil-borne organisms is disclosed (column 1, lines 60-63). Treatment of soil by irrigating the soil is disclosed (column 12, Example D-10). 500 ppm of KT-19827, which is a tannate complex of picro cupric ammonium formate in aqueous

solution combined with a minor amount of a surfactant sufficient to prevent separation of ammonium picrate, was applied (id.). It is noted that 500 ppm is equivalent to about 6.7 ounces per 100 gallons. KT-198, which is a tannate complex of picro ammonium formate, is exemplified at a concentration of 5 grams in 1 gallon of water, which is equivalent to 17.6 ounces in 100 gallons of water (column 7, lines 12-13).

The difference between the claimed invention and the cited reference is that the reference does not expressly state a disinfecting use for "inanimate surfaces." However, the reference clearly discloses application of 500 ppm KT-19827 to soil, which has an inanimate surface. Since control of soil-borne pathogens is disclosed for the tannate complexes taught by the reference, one having ordinary skill in the art would have expected the surface of the soil, i.e. an "inanimate surface," to be disinfected by the complexes. Applicant's 15-30 ounces per 100 gallons of water feature is noted, but the cited reference amply suggests such application concentrations, as discussed above. One having ordinary skill in the art would have been motivated to disinfect inanimate surfaces of the soil by utilizing varied concentrations of the tannate complexes, such as those within applicant's concentration range, depending on the severity of the pathogenic infestation, with the expectation that pathogens in the soil surface would be controlled. Application means such as spraying, drenching or soaking to a soil surface would have been a routine or conventional way of applying an aqueous solution to the soil.

Therefore, the claimed invention, as a whole, would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention and the claimed invention as a whole have been fairly disclosed or suggested by the teachings of the cited reference.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN PAK
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GROUP 1600